

BEFORE THE BOARD OF OPTOMETRY  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the proposed ) NOTICE OF PROPOSED  
amendment of ARM 8.36.601, ) AMENDMENT  
pertaining to continuing )  
education )

NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. On May 1, 2002, the Board of Optometry proposes to amend the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Optometry no later than 5:00 p.m., April 8, 2002, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdopt@state.mt.us.

3. The rule as proposed to be amended provides as follows: (stricken matter interlined, new matter underlined)

8.36.601 REQUIREMENTS (1) Each licensed optometrist shall be required to attend not less than 36 hours ~~biannually~~ biennially of scientific clinics, forums or optometric educational studies as may be provided or approved by the board of optometry as a prerequisite for ~~his/her~~ license renewal. Continuing education will be reported every two years on the renewal form commencing with the 1999 renewal form.

(a) through (3) remain the same.

(4) ~~After attendance at an approved continuing education program the optometrist shall submit a completed continuing education report form.~~ The continuing education requirement is waived for the reporting period during which:

(a) the person graduates from an accredited school of optometry and then promptly becomes a licensee; or

(b) the licensee completes a residency program accredited by the accreditation council on optometric education of the American optometric association.

(5) remains the same.

AUTH: 37-1-319, 37-10-202, MCA  
IMP: 37-1-306, MCA

REASON: There is reasonable necessity to amend ARM 8.36.601 in order to clarify the continuing professional education requirements for optometrists. The Board notes that the same proposed amendments were previously made in the May 10, 2001, issue of the Montana Administrative Register. A member of the public commented and asked whether the Board would accept residency program courses in satisfaction of the continuing education requirement. As a result of that comment, the Board gathered information from the various schools of optometry concerning their residency programs, and has modified the proposed language of the rule to accept accredited residency program courses.

The Board proposes to amend subsection (1) because "biannually" should have been stricken in a previous notice and amended to the word "biennially" to correctly reflect the Board's intent of the two-year time frame. The deletion of text in subsection (4) is proposed to remove the requirement for licensees to submit attendance forms following each continuing education program. This requirement duplicates the requirement in (5) that the licensees maintain a copy in their own records. This will reduce staff time and storage requirements. The new material added to (4) addresses the problem with the requirement that recent graduates are required to complete the full 36 hours of continuing education prior to the end of their first reporting period, regardless of whether or not it is six months or 20 months away from the date of licensure. These persons have just completed their college education and are viewed to be educated on all of the current procedures and technical knowledge which continuing education is intended to provide to those in practice. Requiring recent graduates to complete the 36 hour requirement at this time is viewed to be duplicative of their recent education and a definite time and cost burden on new licensees. For these reasons the Board proposes to grant them a waiver of the continuing education requirement during the first reporting period following graduation.

4. Concerned persons may submit their data, views or arguments concerning the proposed action in writing to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdopt@state.mt.us](mailto:dlibsdopt@state.mt.us) to be received no later than 5:00 p.m., April 12, 2002.

5. If persons who are directly affected by the proposed action wish to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit the request along with any comments they have to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdopt@state.mt.us](mailto:dlibsdopt@state.mt.us) to be received no later than 5:00 p.m., April 12, 2002.

6. An electronic copy of this Notice of Proposed Amendment is available through the Department's and Board's site on the World Wide Web at <http://discoveringmontana.com/dli/opt>. The Department strives to make the electronic copy of this Notice of Proposed Amendment conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address does not excuse late submission of comments.

7. If the Board receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of those persons who are directly affected by the proposed action, from the appropriate administrative rule review committee of the legislature, from a governmental agency or subdivision or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 27 based on the 267 licensed optometrists in Montana.

8. The Board of Optometry maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Optometry administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdopt@state.mt.us](mailto:dlibsdopt@state.mt.us) or may be made by completing a request form at any rules hearing held by the agency.

9. The Board of Optometry will meet on May 1, 2002, in Billings to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed amendments. The meeting will be held in conjunction with the Board's regular meeting. Members of the public are welcome to attend the meeting and listen to the Board's deliberations, but the Board cannot accept any

comments concerning the proposed amendments beyond the April 12, 2002, deadline.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

BOARD OF OPTOMETRY  
LARRY OBIE, PRESIDENT

By: /s/ WENDY J. KEATING  
Wendy J. Keating, Commissioner  
DEPARTMENT OF LABOR & INDUSTRY

By: /s/ KEVIN BRAUN  
Kevin Braun,  
Rule Reviewer

Certified to the Secretary of State, March 4, 2002.